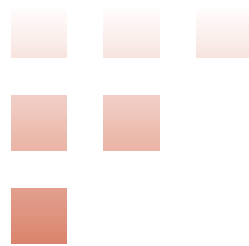


HAVA•NJ

Preliminary State Plan



*Improving
the Shape of
New Jersey's
Voting
Experience*



*Prepared by the New Jersey
Office of the Attorney General
as required by Public Law 107-252,
Help America Vote Act 2002,
Section 253 (b)*

contents

Table of Contents

Introduction	1
Section One	3
<i>How the State will use the requirements payments to meet the requirements of Title III to improve the administration of elections</i>	
■ Voting Systems	3
■ Statewide Voter Registration	6
■ Provisional Balloting and Voting Information at the Polling Place	7
■ Voter Registration Application and other election forms	8
□ Modification of Forms for Voters with Disabilities	9
■ Education and Training	9
Section Two	12
<i>How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1) of Section 254 (a), including a description of</i>	
A. <i>the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and</i>	
B. <i>the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8) of Section 254 (a)</i>	
■ Distribution and Eligibility for Requirements Monies:	12
□ Voting Systems	12
□ Statewide Voter Registration System	13
□ Voter Education and Election Officials' Training	14
■ Monitoring of the Disbursements	14
Section Three	16
<i>How the State will provide for programs for voter education, election official education training and poll worker training which will assist the State in meeting the requirements of Title III</i>	
■ Voter Education	16
□ Outreach for Voters with Disabilities	17
□ Notice for Persons with Restored Voting Rights	17
□ New Voting Systems Education	17
■ Election Official Training	18
■ Poll Worker Training	19



HAVA•NJ

*Improving
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New Jersey's
Voting
Experience*



contents

Section Four	20
<i>How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301</i>	
■ Voting Systems	20
■ Definition of “Vote”	21
□ Polling Place Accessibility in Relation to Voting Systems	21
Section Five	24
<i>How the State will establish an Elections Fund for purposes of administering the State’s activities under this part, including information on fund management.</i>	
Section Six	26
<i>The State’s proposed budget for activities under this part, based on the State’s best estimates of the costs of such activities and the amount of funds to be made available, including specified information on</i>	
A. <i>the costs of the activities required to be carried out to meet the requirements of Title III</i>	
B. <i>the portion of the requirements payments which will be used to meet such requirements; and</i>	
C. <i>the portion of the requirements payments which will be used to carry out other activities</i>	
<i>Title III Requirements: Estimated Costs for each Item;</i>	
<i>Portion of requirements money to be allocated for:</i>	26
□ Voting Systems	26
□ Statewide Voter Registration	27
□ Provisional Balloting	27
□ Election Forms and Documents	27
<i>“Other Activities” for Which the Use of</i>	
<i>Requirements Payments are Anticipated</i>	27
□ Voter Education	27
□ Disability Access	28
□ Election Officials’ Training	28
□ Administrative Complaint Procedure	28
□ State Management Costs	28
■ Allocation of Title III Monies	28
■ Chart of Estimated Costs of Title III Monies	29
Section Seven	30
<i>How the State, consistent with HAVA, will maintain expenditures of the State for activities funded by the payments at a level equal to or greater than the level of such expenditure in State FY2000</i>	



Section Eight	32
<i>How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the state in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the processes used to develop such criteria and a description of which official is to be held responsible for ensuring that each performance goal is met</i>	
Section Nine	36
<i>A description of the uniform, nondiscriminatory State-based administrative complaint procedure</i>	
Section Ten	38
<i>If the State received any payment under title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities</i>	
Section Eleven	40
<i>How the State will conduct ongoing management of the plan except that the State may not make any material change in the administration of the plan unless the change</i>	
A. <i>is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan;</i>	
B. <i>is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and</i>	
C. <i>takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A)</i>	
Section Twelve	42
<i>In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes for the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such fiscal year</i>	
Section Thirteen	44
<i>A description of the committee which participated in the development of the State plan in accordance with section 255 of HAVA and the procedures followed by the committee under such section and section 256</i>	
Concluding Remarks	46

introduction

Introduction



It is fundamental to a free and democratic society that elections are conducted in a fair manner, with all qualified citizens having an equal opportunity to vote and to have their votes counted. It is for this reason that as the Chief Election Official of New Jersey, I welcome the unprecedented federal support that the states will receive under the “Help America Vote Act of 2002” (HAVA). Enacted on October 29, 2002, HAVA is intended to provide federal monies to assist in the upgrading of a state’s voting equipment and to provide for the implementation of procedures that will protect each citizen’s right to vote, while maintaining confidence in the integrity of the state’s election system.

HAVA provides, among other things, for the replacement of the antiquated lever voting machines and punch card machines. It sets forth voting system standards to assure accurate vote counts. It mandates the creation of a statewide voter registration system. It sets forth identification requirements for first-time registrants and for the use of provisional ballots, with the provisional ballot voter to be given the opportunity to ascertain the disposition of the ballot. Polling places will have additional notices to inform voters as to voting procedures and rights. It is further intended that voters with disabilities will be able to vote confidentially and independently in fully accessible polling places.

Under Section 101 of Title I of HAVA, states can receive funds for a broad range of activities for the overall improvement of their election structure and administration. Section 102 of Title I provides for funding for the replacement of lever and punch card machines. Title II of HAVA establishes the Election Assistance Commission, a federal agency charged with a variety of election-related responsibilities. For example, it will act as an informational resource, conduct studies relating to voting technology and promulgate guidelines and recommendations to the states.

Title III of the Act sets forth substantive electoral requirements for the states, such as statewide voter registration systems, provisional balloting, identification requirements for first-time registrants and additional notices in polling places of voter rights. Title III also provides for the largest portion of federal funding to assist the states in implementing HAVA. Title III provides for a three-year plan for receipt of federal funds. To receive a share of section 252, Title III monies, commonly referred to as “requirements payments”, a state must submit a written plan known as a State Plan, detailing its intent of compliance with Title III and its use of the federal funds.

Funds distributed to a state pursuant to HAVA can be used for the Title III requirements relating to voting systems, statewide voter registration, provisional balloting and can also be used for voter education efforts, election official training and overall improvement of a state’s election administration.

States also will receive under section 261 of Title III monies to be used for voters for disabilities for the purpose of polling place accessibility, equal access to voting, voting information and sensitivity training for district board workers.



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New Jersey has a strong record of commitment to elections through the efforts of its election officials and the interest and participation of our voters and various constituency groups. It has been a long-standing requirement to send sample ballots to registered voters before each election. New Jersey has used provisional ballots since the 1996 General Election and in 2001, it replaced punch card voting machines that had been used for decades in two counties. HAVA will now provide the State with the ability to further strengthen its electoral commitment. New Jersey has already received \$16,836,817 under Title I. A large portion of Title I monies will be used for the replacement of the lever voting machines that are now used in seven counties. Under Section 252 of Title III, it is estimated that the State is eligible to receive, for the federal fiscal year of 2003, approximately \$23 million. Under Section 261 of Title III, New Jersey will be eligible to receive \$352,485.00

The Preliminary State Plan which follows this Introduction details how New Jersey intends to further comply with HAVA requirements in order to receive Title III funds. Pursuant to HAVA, in my capacity as the State's Chief Election Official, I have appointed a diverse group of election officials and other citizens to assist in the preparation of the Preliminary State Plan. I asked this group, the New Jersey State Plan Committee ("SPC"), to take this opportunity to not only consider how New Jersey can meet the specific mandates of HAVA, but how we can provide for even greater improvement in the manner in which elections are conducted. We are particularly mindful that one of the fundamental goals of HAVA is to assure statewide uniformity and that this goal can be met if we move toward a more coordinated and centralized system at the state level.

The changes required under HAVA will not occur overnight. All states, including New Jersey, will have until 2006 to replace the lever voting machines and implement a statewide voter registration system. The "free access system" for provisional ballot dispositions will be available as of the 2004 June Primary. Some of the changes proposed for our State will require legislation and regulatory changes. Our ability to fully realize all of our intended changes will also be dependent upon full federal funding over the next three year period as set forth in HAVA. You have our assurance, however, that we will work to achieve these goals to better serve our citizens.

We welcome any comments or suggestions that you may have regarding this Preliminary Plan as we appreciate that an informed and involved citizenry is an indispensable part of a viable election process.

Peter C. Harvey
Attorney General
State of New Jersey

Section One

How the State will use the requirements payments to meet the requirements of Title III to improve the administration of elections.

Voting Systems

Section 301 of Title III of HAVA sets forth the standards for voting equipment and voting procedures to be used in federal elections, for the purpose of protecting the individual right to vote and assuring the accuracy of, and confidence in, the electoral process.

First, all voting systems in the United States must provide for the following: 1) the ability of the voter to review the votes indicated on the voting machine before the ballot is finally cast ; 2) to allow the voter to correct any votes, including any overvotes; 3) a means for an audit of the votes cast, or a “permanent paper trail”, of the votes cast, which would allow for an effective recount; 4) a means to allow voters with disabilities, including voters with visual impairments, to vote independently without third party assistance by way of at least one direct recording electronic voting system, or other voting system equipped for individuals with disabilities, at each polling place; 5) multi-lingual ballots in required election districts; 6) the error rate of the voting system must comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission; and 7) there must be uniform and non-discriminatory standards as what constitutes a “vote.”

These voting system requirements must be met no later than January 2006. If a state applies for funds under Title I to replace lever and punch card voting machines, it must replace them in time for the November 2004 general election, unless it applies for a waiver until January 1, 2006.

Although the Act provides that no state is to be required to replace any existing lever machines or punch card machines used in the polling places, New Jersey, like other states, has determined that the lever machines will be not able to meet the new federal standards and, therefore, must be replaced. While New Jersey does not use punch card machines in its polling places, it does use them in some Counties for absentee ballot counting .

Under Title 19, Election Laws of New Jersey, the current state statutory authority for the purchase and maintenance of voting machines lies with each of the State's 21 counties. An individual county can purchase a machine that is on the list certified by the Attorney General. Once a voting machine has been subject to examination by a Committee appointed by the Attorney General and approved by his office, it may legally be used in any election within the county.

As of this date, there are seven counties in New Jersey that use lever voting machines: Camden, Cape May, Cumberland, Essex, Hudson, Mercer¹ and Monmouth Counties. Currently, these Counties own a total of approximately 3,588 voting machines for a total of 2,304 election districts. These Counties use a total of 1,439 polling places.

Currently, there are no Counties that use punch card machines in the polling



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places. Salem and Sussex Counties had used such machines until the November 2001 General Election. After the 2000 Presidential Election, The State Legislature determined that the punch card machines should no longer be permitted in the polling places and opted to purchase electronic voting equipment for those two Counties. There are two Counties in the State, however, that continue to use punch card machines for the absentee ballots. They are the Counties of Cape May and Somerset². It is recommended that these machines should also be replaced.

In terms of an accessible voting system for voters with disabilities, including voters with visual impairments, Salem and Sussex Counties are the only two Counties in the State that are fully compliant. Each of the voting machines in those two Counties is fully accessible for voters with disabilities.

¹Mercer County has contracted to purchase electronic voting machines which shall be in use in 2004.

²While Mercer County currently has a punch card system for absentee ballots, it has just purchased an optical scan system which will be in use for the November 2003 general election.

Electoral Process Statistics by County

	Number of Registered Voters	Number of Election Districts	Number of Polling Places	Type of Voting Machine in Polling Place	Number of Voting Machines
Atlantic	136,660	161	125	Electronic	230
Bergen	476,631	554	394	Electronic	1200
Burlington	237,903	359	170	Electronic	500
Camden	292,658	331	219	Mechanical	730
Cape May	63,823	131	50	Mechanical	167
Cumberland	74,663	93	68	Mechanical	110
Essex	382,443	568	335	Mechanical	695
Gloucester	154,273	231	50	Electronic	510
Hudson	265,323	451	258	Mechanical	530
Hunterdon	72,888	111	43	Electronic	127
Mercer	186,200	293	207	Mechanical	599
Middlesex	405,706	597	245	Electronic	662
Monmouth	370,189	437	302	Mechanical	757
Morris	288,085	395	499	Electronic	805
Ocean	319,803	326	217	Electronic	704
Passaic	228,206	288	170	Electronic	420
Salem	39,051	45	132	Electronic	160
Somerset	149,266	277	132	Electronic	290
Sussex	79,746	107	78	Electronic	351
Union	257,300	439	190	Electronic	500
Warren	56,327	85	49	Electronic	95
Total	4,537,144	6,279	3933	-	10,142

In accordance with Title I and Title III of HAVA, it is recommended that all lever machines be replaced with electronic machines capable of meeting all of the federal standards. Furthermore, Atlantic County has older electronic voting equipment, which is in constant need of repair and for which some of the parts can no longer be obtained. These machines also cannot be retrofitted to accommodate voters with visual impairments. Therefore, it is recommended that this is an appropriate time for that County's voting systems to be replaced. Atlantic County currently owns 230 voting machines for 161 election districts. It now has 125 polling places.

The remaining 11 Counties in the State have newer electronic machinery. Nine of these Counties have the capability to modify their existing systems to accommodate voters with disabilities, including the capacity to install audio assistance. They are Bergen, Burlington, Gloucester, Hunterdon, Middlesex, Morris, Ocean, Somerset and Union Counties. There are currently a total of 5,298 voting machines owned by these Counties for a total of 3,289 election districts. There is a total of 1,940 polling places in these Counties.

Passaic County and Warren County have voting machines that can not be retrofitted to fully accommodate voters with disabilities, particularly voters with visual impairments. Passaic County currently owns 420 voting machines for 288 election districts and has 170 polling places and Warren County owns 95 voting machines for 85 election districts and has 49 polling places.

It will have to be determined if these two Counties should obtain a new set of voting machines or whether they can continue to use their current machines in conjunction with a separate accessible voting system for each election district. There is some legitimate concern that having voters with disabilities, in particular voters with visual impairments, using a different machine than the other voters in the election district may compromise the secrecy of their votes. There is also the administrative concern of having to program and set-up two types of voting machines for each election district. These issues will need further study and input from all interested persons, including members of the disability community. Any decision must be based on assuring voters with disabilities of their rights as protected under HAVA. The cost differential between the two proposals should not determine the outcome.

Funds should also be dedicated for the replacement the punch card absentee ballot counters.

Because the replacement and/or modification of the above-noted affected voting machines in the State is one of the highest priorities under HAVA, and because of the number of voting machines that are at issue, it is anticipated that a significant amount of the replacement monies will need to be dedicated to this purpose. While the State did receive close to \$17 million of Title I funding, it is believed that amount will not be sufficient to fully cover the cost of voting machine replacement. Accordingly, a portion of Title III funds will be required for voting machine purposes. The Attorney General will develop a formula, in a manner to be determined, and based upon appropriate need, to assure a fair proportional share of federal funds. Dependent upon full federal funding over the three year period for which monies have been authorized under HAVA, it is anticipated that dedicated-HAVA funds can absorb, at a minimum, half of the Counties' voting machine replacement and adaptation expenses.

It is recommended that the Attorney General further undertake a study of the recent national discussion as to what constitutes an effective "paper trail" mechanism under HAVA. There is an articulated position that all voting machines should be capable of showing the voter a "paper receipt" before the votes are cast on the machine.



The voter would only be allowed to view the “receipt” but not to take it out of the polling place. This concept is still in the developmental stage. Any such procedure would have to assure that the secrecy of the ballot is not compromised. Congressman Rush Holt of New Jersey has recently introduced federal legislation on this matter.

Statewide Voter Registration

Section 303 of Title III requires that each state implement a “single, uniform, official, centralized, interactive, computerized state-wide voter registration list that is defined, maintained and administered at the state level”. Such a system must allow for the elimination of duplicate registrations and assure that voters are appropriately purged in accordance with the National Voter Registration Act, 42 U.S.C.A. 1973gg-1 *et. seq.* (“NVRA”).

The system must provide for interfacing with other state agencies, such as the Motor Vehicles Commission (“MVC”) for verification of drivers’ license numbers and the Department of Health for decedent verification. There must also be interfacing with those agencies which can provide criminal information, as any person who is serving a sentence, is on parole or probation as the result of a conviction for an indictable offense is disqualified from voting during the time of such penalty under state law. The system will also be connected to the Social Security Administration for verification of the last four digits of a registrant’s social security number.

The system must be in place by January 2004, unless a state seeks a waiver until January 2006.

New Jersey does not now have a state-wide registration system. Pursuant to the NVRA, in 1996 New Jersey did establish an interconnecting computer system among the 21 offices of the County Commissioners of Registration and the Division of Elections wherein the Counties provide the State with their voter registration lists.

The purpose of the system is to allow the State to fulfill its reporting requirements to the Federal Election Commission as to the number of voter registrations received by mail, and those collated from the designated voter registration agencies, such as the MVC, public assistance agencies, social service agencies, and agencies that serve people with disabilities. The State must also report the number of active, inactive and deleted voters, as defined by the NVRA.

By way of the current system, New Jersey is also able to inform the counties of duplicate registrations. Duplication can occur when a currently registered voter re-registers in a new county.

To meet the new demands under HAVA, however, it will be necessary for New Jersey to make a major capital investment in its registration infrastructure. It will be necessary to develop and purchase all required components to have an interconnecting system among, at a minimum, the offices of the Division of Elections, the 21 County Commissioners of Registration, the MVC, the Department of Health, the Social Security Administration and those agencies with criminal information. The 21 County Clerks and the 566 Municipal Clerks, who are also election officials, will need access to the system as well. There should also be consideration of interfacing with all of the other voter registration agencies in the State, so designated under the NVRA and which are identified above.

It is anticipated that this will require significant funding, although the final outlay will likely depend upon whether it is deemed appropriate to retain an outside vendor to create the system, or to have the project developed completely in-house by State Information Technology personnel. The cost factor may also depend

upon whether maintenance and service of the system will require a vendor or will be done in-house. If the system is maintained by the State, a full-time technical support unit within the Department will be needed.

It will also be necessary to dedicate funds for initial training of the offices of the County Commissioners of Registration regarding a new state-wide voter registration system.

It is also recommended that the Attorney General study the viability of future implementation of a web-based voter registration system.

Provisional Balloting and Voting Information at the Polling Place

Section 302 of Title III creates the right of voters in federal elections to cast provisional ballots if they fail to provide the required identification information, or if they are voting after the polls close by way of a federal or state court order. New Jersey has provided for provisional balloting since 1996. The procedure originated by way of a federal consent decree for the 1996 Presidential Election. Since 1999, these original procedures have been codified into law. Provisional ballots are in use for any voter who moves to another address within the county of registration and fails to notify the county commissioner of registration of the move. These ballots are also to be used if there is deficient information in the poll book for the voter, such as the signature. At the polling place, the provisional ballot voter is provided with a ballot and envelope on which there is a detachable affirmation statement. The provisional ballot voter completes the statement by providing his or her name, current address, former address and the reason why this ballot is being used, either because of a move within the county or because the registration information in the poll book is not complete. All of the provisional ballots are secured in a provisional ballot bag and returned to the appropriate County Commissioner of Registration for verification. If it is determined that the person is not a registered voter, the ballot is not counted. It is common practice to send the unregistered individual a voter registration form so that he or she can register.

Because of HAVA, New Jersey will need to amend its provisional ballot law to expand its use in cases of voters who do not provide the requisite identification information. Under HAVA, a first-time mail registrant after January 1, 2003, will have to provide a driver's license number or the last four digits of his or her social security number. If the registrant does not have either form of identification, a copy of an identifying document containing the registrant's name and address, such as utility bill or paycheck, will be acceptable. If the registrant does not provide the identification information (driver's license number, last four digits of the social security or a copy of an identifying document) at the time of registration, starting with the June 2004 Primary Election, he or she will be asked for it at the time of voting. If the registrant does not produce the information at that time, he or she will not be permitted to vote in the voting machine, but instead will be provided a provisional ballot. If such voter has submitted an absentee ballot, it will be processed as a provisional ballot.

As for the "after-hours" voting, there has been a longstanding practice for the state courts to issue orders permitting a voter to cast an absentee ballot in a case where the person is deemed eligible to vote by the court, but because of the hour of the court's ruling, is not able to get back from court to the polling place in time. Legislation will be required to provide for the use of the provisional ballot in all cases where a voter is ruled qualified to vote by a court on an election day, but will

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not be able to vote in the polling place because of time constraints.

It has been suggested that the provisional ballot law be further amended so that the provisional ballot affirmation statement could constitute a voter registration in cases where it has been determined that the person is not currently registered to vote. In other words, instead of sending the person a voter registration form to complete, the County Commissioner of Registration could use the information contained on the affirmation statement for registration purposes. This idea on its face appears to be valid, but will require further study. At a minimum, the information required on the affirmation statement would have to be expanded to include all of information required on the voter registration form.

It is not expected at this time that the expanded use of provisional ballots will cause a significant increase in expense for the County Clerks, who are responsible for the printing of all the ballots, or for the County Superintendents of Elections or County Boards of Election who process those ballots.

There is another Title III provision regarding provisional ballots, however, which will require the establishment of a procedure new to New Jersey. All voters who cast provisional ballots, as of the 2004 Primary Election, will be entitled to the use of a “free access system”, to be established by the Attorney General, to ascertain whether their ballots were counted and if not, the reasons for rejection. As of this date, there is pending legislation that would authorize the Attorney General, by way of a toll-free telephone number or by the Internet, to establish such notification process for provisional ballot voters, as well as for absentee ballot voters. Such a procedure will likely require the expenditure of federal funding. It must be able to be accessible to voters with disabilities. For example, any telephone system must include a TTY phone number and any web-based system must be accessible. Funds obtained under Title III can be used for this purpose.

New Jersey also will be required, by Title III, to expand the number of notices it provides in a polling place on election days. There will be a cost factor for such implementation. Under our State's current practice, sample ballots, which include the hours and day of the particular election, must be posted in every polling place. There is also the required notice of the challenge procedure, voting machine instructions, and the availability in the polling places of complaint forms with stamped return envelopes pre-addressed to the applicable County Commissioner of Registration.

Pursuant to Title III, as of the June 2004 Primary Election, each polling place will be required to also provide a notice of the identification requirements for first time voters, and a Notice of Rights to all voters, including the identity of the office to contact with any complaints or questions, as well as general information regarding federal and state laws pertaining to voting rights and to electoral fraud and misrepresentation.

It is recommended that the Attorney General be designated to design these new notices to assure uniformity and consistency throughout the State. The Attorney General will incur administrative costs, including personnel, to perform this task. Therefore, Title III money will be required for this statutory requirement.

Voter Registration Application and other Election Forms

Pursuant to Section 303 all mail-in voter registration forms must include check-off boxes as to age and citizenship of the applicant. If the applicant answers

“no” either to being 18 years of age or having United States citizenship, there is to be a statement on the form advising the applicant not to submit the document. The voter registration form can also provide a request for identification information such as the driver’s license number or last four digits of the social security number, if the State chooses to require this information at the registration stage. If the person does not have a driver’s license number or a social security number, he or she can provide a copy of an identifying document with the name and address on it. The form must also advise the applicant that if the identification information is not provided at the time of registration, it will be requested at the polling place or on the absentee ballot form.

Such items are not currently on New Jersey’s form, which is used for all registration purposes whether it be a mail-in or an in-person process. The form must be revised to conform with HAVA requirements. The form should also be fully inclusive as to the type of identifying document that will be acceptable for a registrant without a driver’s license or social security number to assure that no qualified registrant is disenfranchised because he or she may not have common identifying documents. The absentee and provisional ballot materials will also need to be revised to include the information relating to identification requirements.

Modification of Forms for Voters with Disabilities

Consistent with one of the principal intents of HAVA to allow for full access to the electoral process by voters with disabilities, election forms, such as the voter registration application, the sample ballot as well as the absentee and provisional ballot materials, must be provided for in alternative forms, such as large print, braille and audio. It has also been suggested that on the voter registration application, there should be provisions to permit an applicant to “check-off” if he or she requires accommodations, alternate forms of election materials, or uses a rubber signature stamp in lieu of a handwritten signature.

Accordingly, it is estimated that a portion of Title III funds will be dedicated to the design and printing of these materials.

Education and Training

As detailed in Section Three of the Preliminary Plan, New Jersey is intent on formalizing its training for election officials, in particular, the County Boards of Election, the County Clerks and the County Superintendents of Elections, along with key personnel in those offices, to assure consistent and informed application of law. Section Three of the Preliminary Plan also details the manner in which New Jersey intends to upgrade and expand its voter outreach to increase electoral participation for all voters. It is anticipated that increased training and public outreach will require the expenditure of public funds, including Title III monies, and that such funds will also be required for sufficient support staff at the State level to monitor and oversee these activities.

Voting Systems Standards

HAVA Requirements	Current Status	Action Planned
All voting systems shall permit a voter to verify/review choices before ballot is cast	Partially meets the requirement With lever and electronic machines, voter can review before the red mechanical is pulled or electronic "cast vote" button is pushed. See comments below regarding paper ballots	Voter Education Program for paper ballots
Allow voter to change or correct any error on the ballot before casting it	Partially meets the requirement Capable with lever and electronic machines Paper ballot procedures used in all polling places (provisional and emergency); and the Optech III-Eagle (mark-sense paper ballot system) used in Warren County permit the issuance of duplicate ballots for errors or corrections. Absentee ballot procedure does not currently meet the standard. If the voter makes an error and marks the ballot to change it, the ballot may be considered "marked" and not counted. In practice, a voter may contact the county clerk for a duplicate ballot, but there is no notice to that effect on the absentee ballot materials.	Voter Education Program for paper ballots
Prevent or alert voter if there is an overvote	Partially meets requirement Lever and electronic machines are programmed to prevent overvoting There is currently no notification for all paper ballots as to the effect of an overvote	Voter Education Program for paper ballots
All voting systems must be able to produce a paper audit trail of all votes cast	Meets the requirement	No action planned for this reason
Voting systems must be accessible for individuals with disabilities, including those with visual impairments, to permit such person to vote independently and confidentially	Partially meets the requirement Of the 21 Counties, only Salem and Sussex counties meet the requirement	Update existing voting systems or purchase new voting systems
Voting systems shall provide for alternative language accessibility pursuant to section 203 of the Voting Rights Act of 1965	Seven Counties are under this federal mandate. The ballots are to be in English and Spanish in the required districts In all election districts in the State, where 10% or more of the registered voters have Spanish as their primary language, the sample ballots must be bi-lingual	For those federally-mandated Counties where there will be machine replacement, the State will require such capability
All voting systems shall have error rates that do not exceed the Federal Election Commission standards to be established	Partially meets the requirements	Voting system replacement where required, in particular the replacement of the lever machine
A uniform definition of what constitutes a vote for each voting system used in the state	State law defines "vote" for paper ballots, lever and electronic ballot card systems	Consideration of legislative amendments and/or regulations for newer electronic voting systems

Provisional Ballots & Polling Place Information

HAVA Requirements	Current Status	Action Planned
Provisional ballots to be available in polling place for person who claims eligibility but for whom there is no record; or for voter who does not provide required identification information; or for voter who votes by court order after the close of the polls	Provisional ballots are available for voter who moves within county but did not provide notification; or for voter for whom there is deficient information in the poll book Voters typically vote with absentee ballot by court order after the polls close	Legislative enactments to expand use of this ballot
Free access system to provide notice of provisional ballot disposition/notice to be given in polling place to provisional ballot voter as to how to ascertain disposition of ballot	Does not meet requirement	Legislation-should include absentee and provisional ballots
Sample ballot to be posted in polling place	Required	No action to be taken
Day and time of election to be posted in polling place	In sample ballot; Separate notice not required	Could be accomplished by legislation
Notice in polling place of voting Rights under federal and state law	Not required	Could be accomplished by legislation
Notice of federal and state laws regarding fraud and misrepresentation	Not required	Could be accomplished by legislation
Posting of instructions for first-time voters	Not required	Could be accomplished by legislation
Voting Instructions for machine and provisional ballots	Required for voting machines, not for provisional ballots	Could be accomplished by legislation for provisional ballots

Statewide Registration System

HAVA Requirements	Current Status	Action Planned
Single uniform, official, centralized, interactive, computerized statewide voter registration system	Not required	To be Implemented by State

Voter Registration Requirements

HAVA Requirements	Current Status	Action Planned
First-time registrants after January 1, 2003, must provide requisite identification	Not required	Conform to HAVA requirements

Section Two

How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1) of Section 254 (a), including a description of

- A. the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and*
- B. the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8) of Section 254 (a).*

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Distribution and Eligibility for Requirements Monies:

Voting Systems

Any County that does not have a fully HAVA-compliant voting system, including an accessible voting system for individuals with disabilities in each polling place, will be eligible to receive a portion of Title I and Title III monies. Any County that purchased HAVA-compliant voting systems after the November 2000 election will also be eligible to apply to the State for a portion of the federal funds for reimbursement purposes. For example, as noted in Section One of the Preliminary Plan, Mercer County recently entered into a contract to replace its lever voting machines with electronic machinery for use in the 2004 elections. As further noted in Section One of the Preliminary Plan, the State paid for the replacement of the punch card voting machines used in the polling places in Salem and Sussex Counties up until the November 2001 election.

Six remaining Counties will need to move forward on a plan to replace their lever voting machines, Atlantic County will need to obtain more up-to-date voting machines and decisions need to be made on the voting systems for Passaic and Warren Counties. As stated in Section One of the Preliminary Plan, the current law bestows upon the Counties the exclusive authority to purchase voting machines for use in their respective jurisdictions. The sole legal limitation is that the voting machine must be one that has been certified for use by the Attorney General. This current scheme requires that the disbursement of any federal monies to the Counties is conditioned upon the purchase of HAVA-compliant equipment. This could be included in a state Appropriations Act. Receipt of monies should further be conditioned upon the Counties having a program for voter education on the use of the new voting system, subject to the approval of the Attorney General. Furthermore,

the certified list of the Attorney General for future purchases must be restricted to HAVA-compliant equipment.

There has been discussion of having the State, rather than the individual Counties, contracting for the purchase of the voting equipment that would be used and maintained by the Counties. It has been suggested that such approach could have cost-savings benefit and would further uniformity of the State's electoral process by assuring the purchase of the same voting machines in the affected Counties. Because such contract would be for goods (i.e. voting equipment) which are not used by State government, but rather are used by a local governmental unit (the County), it would require legislation to alter the current purchasing authority set forth in Title 19. It is recommended that such approach be seriously considered.

Another alternative would be for the affected Counties themselves to act in a group as one buying unit. This would likely not require legislative approval as the Counties would be retaining their current purchasing power. As with a State contract, this approach could further uniformity and enhance the ability to get the best contract in terms of price and other negotiable issues, such as servicing and maintenance of the machines.

In order to obtain full acquisition of all HAVA-compliant voting equipment and meet the other requirements of Title III, it is estimated that it will require a combination of federal, state and county monies. The federal and state monies will be deposited in the "Election Assistance Fund" (hereinafter referred to as the "Fund") that has been established by the Attorney General. The Attorney General will determine, in an appropriate and informed manner, the portion of the Fund that each County will receive. It is anticipated that there will be insufficient monies in the Fund to fully cover the cost of all of the required voting equipment for the polling places. As the Counties have the existing statutory fiscal obligation for the purchase of voting machines, it is expected each County will provide for the remaining funds, after its allocation from the Fund, to pay for its voting equipment.

To assure that there will be fully compliant voting systems throughout the State, there must be a comprehensive plan, with appropriate allocation of funds, to encompass: 1) the replacement of the oldest lever voting machines in the State which are now in use in the Counties of Camden, Hudson and Monmouth. The votes from this old machine must be manually transcribed by the district board workers at the close of the polls; 2) the replacement of the other type of lever machine, which is used in the Counties of Cape May, Cumberland and Essex. The votes on this machine are on a print-pak. There is no need for the district board workers to transcribe the votes; 3) the replacement of Atlantic County's voting machines 4) an effective compliance plan for Passaic and Warren Counties' voting systems; 5) the providing of all the required equipment for the affected Counties to retrofit existing voting machines to assure that there is at least one fully accessible voting system for individuals with disabilities in each polling place; 6) the replacement of the punch card voting systems for absentee ballots in the two Counties and 7) a reimbursement scheme for the purchase of HAVA-compliant voting systems since the 2000 November election.

Statewide Voter Registration System

Federal funds will be used for the State to develop and maintain a HAVA-compliant statewide voter registration system. Development of such a system will require the State to survey the individual counties to determine the current county systems and the extent of the local needs to bring the State system into HAVA compliance. The State will



also need to survey the needs of the other other governmental offices identified above.

Because HAVA requires that the State develop and maintain the statewide voter registration system, it is not expected, at this time, that any HAVA-dedicated monies will be directly distributed to the county or local election offices for this initial purpose. Whether it will be specifically disbursing any such monies to other State agencies, such as the MVC, Department of Health or the criminal information offices, for the start up of the program, will depend upon the final plan for the system.

It is further recognized that there will be ongoing maintenance and servicing requirements at the State and local levels. This would be a negotiable issue for a State contract. If the State determines to develop the system in-house, it should then consider whether any requirements monies will be distributed to the Counties for maintenance and servicing or whether that responsibility will remain with the Counties, as it is currently established by law.

Voter Education and Election Officials' Training

It is anticipated that the State will use HAVA funding for a statewide marketing campaign for voter education and to develop uniform training programs. Depending upon the amount of funding that may be available after these State initiatives are accomplished and the final costs for voting machine replacements and the statewide voter registration system has been determined, and further dependent upon full three-year federal funding, some of the monies may be distributed to the Counties for voter education and training.

Monitoring of the Disbursements

The State will develop an effective monitoring of the Counties, primarily to assure that the voting systems are HAVA-compliant and that the statewide voter registration system is being properly maintained and utilized. There should be a requirement for the Counties on a biannual basis (after the June primary and November general elections) to report on the performance of the voting machines, with the emphasis on identifying any malfunctions.

As for the statewide voter registration system, its maintenance and functionality will necessitate the Division of Elections having on-going interaction with those agencies that will be inputting information (such as MVC and the County Commissioners of Registration) and the agencies that will be providing identification information (MVC, the Department of Health, and the criminal information agencies and the Social Security Administration), as well as those other governmental offices that will have access to the system. The State will develop a reporting system to assure that all voter registrations are being properly recorded and maintained and that there is continued access to the required agencies to verify identification information.

Section Three

How the State will provide for programs for voter education, election official education training and poll worker training which will assist the State in meeting the requirements of Title III.

Voter Education

The fundamental goal of any electoral process, at any level of government, is to have the largest number of qualified voters turn out to vote, whether it be for the filling of public elective offices or the decision-making on public referenda. The more inclusive and participatory the process is, the stronger and more secure is our democratic form of society. This is clearly one of the goals of HAVA, to engage as many qualified voters in exercising the franchise. One of the ways to achieve this goal is through education. In New Jersey, there are currently some methods in place to reach out to voters. There are required newspaper notices to inform the electorate of an upcoming election, the related deadline for voter registration, the availability of absentee ballots and the challenge procedures in the polling places. Voters are also sent sample ballots immediately before each election: school, non-partisan municipal, primary and general. It has been suggested, however, that the sample ballot be redesigned to attract the attention of the voter. In the polling places on election day, state law requires that sample ballots be posted, and there must be written instructions outside of the voting machine for the voter to review before entering the booth.

While the current statutory procedures serve the public interest, voter education and outreach must be expanded to exploit current mass marketing techniques and to do so on an uniform, statewide basis. It is a common practice in the State for some of the counties to take advantage of free access cable television to disseminate electoral information. For example, some Counties have accessed cable television to recruit district board workers and have also used this outlet to demonstrate the use of a voting machine that is being introduced into a County. The State will use public service announcements on the radio to advise the public of registration deadlines for upcoming elections.

This use of mass media, however, needs to be done on a broad, uniform basis throughout the entire State. Therefore, it is recommended that the Attorney General promulgate guidelines regarding the use of public access throughout the media markets so that every citizen will have notice regardless of where she or he is residing. Such guidelines should also encourage the development of innovative outreach programs by county and local election officials, who will be most familiar with communication modes that may be unique to their populace.

The State, in conjunction with county election officials, could also provide voter information in such public forums as shopping centers, libraries and other facilities that are commonly frequented by our citizens. Eye-catching posters that are strategically placed in such areas can be an effective, yet relatively inexpensive means by which the State can advise the public of how to register to vote and the office to contact if there any election-related questions or problems. Advertising on buses and trains can also be an effective media outreach to a large portion of our citizens.



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There is also need for easier-to-find and read election Web sites and statewide use of cable tv access. An 800 number should be established to provide voter information. The State should also encourage and support programs, such as Freedom's Answer, which are committed to educating and engaging our school children, from grammar school through high school, in the electoral process. The bottom line is: An effective voter education program must be framed within the various lifestyles and daily lives of our citizens.

Outreach for Voters with Disabilities

There needs to be effective and appropriate outreach to individuals with disabilities. Any such program must be developed with the input of disability advocacy groups and other interested persons to assure that all stages of the voting process from registration to casting ballots is fully accessible to individuals with disabilities. The State may consider contracting with appropriate disability organizations to achieve these goals. Effective outreach can be done in a number of ways. First, election forms and notices must be available in alternate formats, such as large print, braille and TTY. Newspaper notices as to upcoming elections or absentee ballot availability should include a telephone number where the voter can get information as to alternate formats of election materials.

It has also been suggested that such notices be provided to interested organizations that have regular dealings with persons with disabilities. As detailed in Section One of this Preliminary Plan, the voter registration application should be modified for voters with disabilities. Sample ballots should not only be available in alternate formats, but should include information about the availability of absentee ballots or how a voter can be assigned to an accessible polling place if the polling place for her election district is not currently accessible. This must be pursued.

Notice for Persons With Restored Voting Rights

There should also be a requirement that any person whose voting rights have been restored, because he or she no longer possesses a criminal disqualification to voting, should be specifically advised of the right to register to vote. Under current law, if a person is serving a sentence, or is on probation or parole as a result of a conviction for an indictable offense under any state or federal laws, he or she can not register to vote, or if registered, is automatically removed from the registry list. There is no requirement of notice of the restoration of the right to participate in the electoral process after such person has fulfilled the criminal penalty.

Legislation should be enacted to require the appropriate office to so notify these individuals as part of the State's effort to further the goal of HAVA to give all qualified citizens the right to vote. Specific notice should be provided to these citizens who may otherwise be excluded from the electoral process. Such notice would also serve the state interest of having such individuals fully re-enter and assimilate back into society.

New Voting Systems Education

In anticipation of new voting systems being introduced into several Counties of the State, an organized and broad-reaching plan must be undertaken to educate voters on the proper use of the machines before their first official use. At the local level, there will need to be public demonstrations at such locations as schools, municipal buildings and shopping malls. In addition, there will need to be voting system demonstrations provided with the coordination of such non-profit groups as the League of Women Voters, senior citizen groups such as the AARP, and other



civic groups. Such demonstrations may be particularly critical for some long-time voters who have been voting on the antiquated lever machines for all of their voting years and who may be uncomfortable with computerized technology. For the voters with disabilities, alternate forms of communication must be developed to assure such voter is able to fully use new voting systems.

Election Official Training

In New Jersey, primary responsibility for the conduct of elections lies in several different offices at the county level. In each county, it is the County Clerk who designs and prints the ballot and who is responsible for the review and issuance of absentee ballots applications and the issuances thereof. The County Clerk is also the filing officer for nomination petitions for county offices in the June primary election as well as independent petitions for local and county offices for the November general elections. The office of the County Clerk is an elected position.

In ten of the State's counties, there is the office of County Superintendent of Elections. This official is appointed by the Governor with the advice and consent of the State Senate for a five-year term. The County Superintendent is the Commissioner of Registration, the custodian of the voting machines and uniquely has law enforcement powers regarding any violations of election law.

In all of the 21 counties, there are County Boards of Election comprised of four members, who are evenly bipartisan. This Board appoints the district board workers (also commonly known as poll workers); certifies the use of polling places; counts the absentee and provisional ballots; and acts as the County Board of Canvassers to generally certify county and municipal election results. Board of Election members are typically appointed by their respective county political party leaders, whose two year appointments are then commissioned by the Governor.

None of these county election officials or their staff currently receives formal, certified training. This contrasts with the municipal clerks who must be certified under state law through a series of educational classes on all subject matters for which they are responsible. This education requirement is on an ongoing, yearly basis. The county election officials, however, through, their respective state organizations do regularly convene for educational conferences. The Attorney General, who represents the County Superintendents of Elections and the County Boards of Election on a daily basis, has members of his legal staff routinely lecture at such gatherings, which are statewide as well as regional. In addition, the Attorney General, as required, issues instructional memoranda to these officials on a general basis and to individual offices, as necessary.

To better assure the accurate and effective execution of their statutory duties, however, the State should undertake educational programs for these officials and key administrative support staff in the election offices, similar to what is now required for municipal clerks, county tax board members and housing authority board members and executive directors. Any training program should include both initial training and provisions for continuing education to maintain qualifications and to keep up with new developments and requirements. Training materials and programs must include information about disability issues provided with input from appropriate disability organizations.

The State intends to pursue, through legislation, a mandatory and appropriate certification program for such training.

Poll Worker Training

Pursuant to current state law, all poll workers, who are formally called district board workers in New Jersey, are required to receive training every two years. The respective County Boards of Election are responsible to assure this mandate. The County Board develops its individual program as there are no uniform, state-wide procedures for training. The training is typically in a classroom format, with the workers being lectured on election law and procedures. There are also voting machine demonstrations. The size of the class and the style of presentation are determined by the individual County Board. For example, some Boards use power point slides along with a lecture, while other County Board classes are strictly tutorial. Each County Board issues its own board worker manual which the workers will usually have with them in the polling place on an election day.

In order to determine whether the County Board training for the district board workers is sufficient, the Attorney General intends to develop, with input from the county election officials, uniform guidelines for training. The Attorney General will also prepare a standard manual to be provided to all board workers in the State, with the one exception to uniformity being the section on voting machines as not all the Counties have or will have the same voting system. As with proposed county election officials' training, the training for board workers must include information about voters with disabilities as provided by input from appropriate disability organizations.

There must also be consideration of amending the law to mandate yearly training for board workers.

Section Four

How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301 of HAVA.

Voting Systems

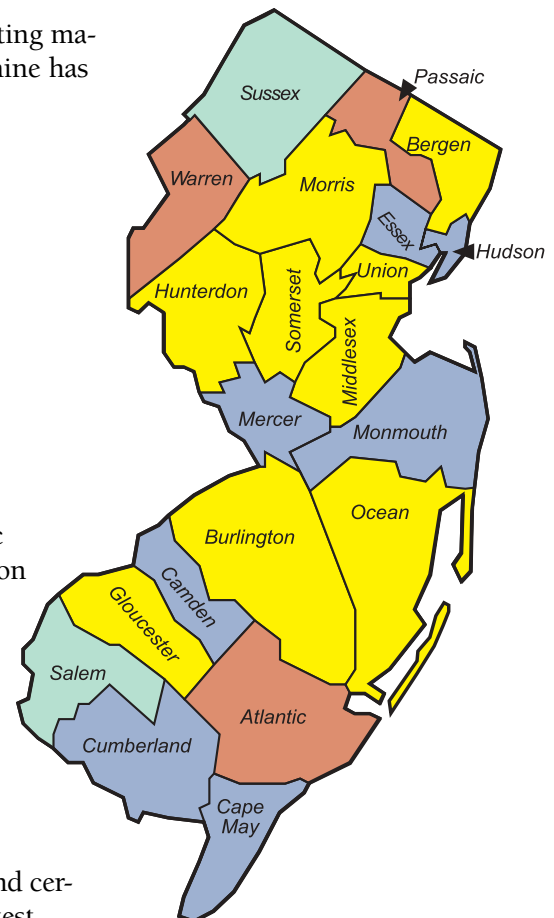
As indicated in Section One of the Preliminary Plan, HAVA sets forth specific standards for all voting systems in the United States, which must be in effect no later than 2006. It is fair to say that these standards are intended to ensure the true intent of the voters' choices and to have those votes cast in a private and secure manner. These standards particularly ensure the rights of voters with disabilities, and certain groups of voters with limited, if any, English proficiency, to fully participate in the electoral process.

New Jersey has had long-standing statutory requirements for voting machines, some of which mirror the HAVA requirements. No voting machine has been certified in New Jersey, unless it has met the following standards:

1. assuring voter privacy;
2. preventing overvoting;
3. permitting the voter to cast votes for all offices for which he or she is entitled to vote;
4. allowing for write-in voting, except for the party offices of delegates to national conventions;
5. protecting accurate vote counts;
6. having integrity mechanisms, such as locking capability and protective and public counters;
7. affixing an emergency ballot box to each machine for use of paper ballots in cases of machine malfunctions.

These standards have applied equally to mechanical and electronic (including optical scanning systems) voting machines. As stated in Section One of the Preliminary Plan, a voting machine must first be certified by the Attorney General before use. Title 19 requires the convening of a three-member Committee to be composed of a patent attorney and two mechanical voting machine experts. In practice, the Committee, now convened by the Division of Elections when requested, will consist of a patent attorney, one voting machine expert and a computer technician. This Committee requires a demonstration of the machine to determine if it meets the current statutory requirements, as noted above. The Committee further requires that the machine have been approved and certified by a recognized Independent Testing Authority (ITA), which will test voting equipment for its compliance with the voluntary standards developed by the Federal Election Commission. Copies of such certification must be provided to the Committee.

Once a voting machine is certified and purchased by a County for use, the law further requires that it be subject to public inspection and testing before an



- Lever
- Electronic (non adaptable)
- Electronic (currently adapted for individuals with disabilities)
- Electronic (adaptable for individuals with disabilities)

election day. Pursuant to Title 19, it is the legal responsibility of the County Commissioner of Registration to have all voting machines prepared in working order for an election and thereafter to make them subject to inspection. Notice is required to be given to the political party county committee chairs and , typically, the candidates on the ballot.

In order to come into compliance with HAVA, which envisions the demise of the lever voting machines, it will be necessary for the Attorney General to promulgate rules and regulations that comport with the latest technology of voting machines. The voting machine examination committee must be formally redefined to include individuals with the expertise to properly analyze electronic machinery and to address the disability component of HAVA. The request for ITA certification must also be formalized.

Further, explicit power should be granted to the Attorney General, on the basis of the voting machine committee recommendation, to de-certify any voting machine that is shown to not meet HAVA requirements. In other words, current law has been outpaced by the growing technological advances and must be revised. Any such revision to current procedures should be flexible enough to consider the capability of a voting system to adapt to changes in voting procedures, such as proportional or cumulative voting, which are concepts being considered in other jurisdictions.

Definition of “Vote”

HAVA further demands that each state define what constitutes a vote; what will count and what will not count. There are longstanding provisions in Chapter 16 of Title 19 that define the validity and non-validity of a paper ballot vote. Again, new definitions are required to comport with the newer voting technology. Legislation should be considered.

Polling Place Accessibility in Relation to Voting Systems

As stated above, HAVA requires that there be at least one accessible voting system in each polling place for voters with disabilities. The voting system must be able to accommodate voters with a range of disabilities, such as the mobility—impaired voter, including those who use wheelchairs, to the voter with visual impairment who will require audio assistance to vote independently. Access to such system for voters with disabilities is unobtainable, however, if the voter can not get into the polling place in the first place. Therefore, the issue of accessible voting systems is intrinsically tied to the issue of accessible polling places.

In New Jersey, the County Boards of Election, which certify polling places, are mandated to locate voting facilities that are physically accessible. The State Division of Elections distributes the reporting forms and checklists that are to be used to determine if a polling place is accessible. The polling place accessibility standards are based upon the State’s Uniform Construction Code, Barrier Free Subcode, N.J.A.C. 5:23-7. In order to make an informed assessment, there must be a physical inspection of the site. The review must be from the parking lot to the entrance into the building and straight into the voting machine. Under current law, if it is determined that there is no accessible polling site for an election district, the County Board may apply to the Attorney General for a waiver. Because it is the commitment and goal of the Attorney General and the State that there be 100% accessible



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polling places, waivers are disfavored and now any such request is carefully scrutinized and requires photographic documentation and a review of alternate locations investigated in order to allow the Attorney General to better assess the request.

It is recommended that achieving this goal will require a multi-faceted approach. First, there must be adequate training for those individuals charged by the County Boards of Election with the duty to inspect polling sites and those county representatives charged with the duty to review the findings, as to the variables of accessibility. For example, this requires an understanding of the various types of motorized equipment and their individual access requirements. This training must be standardized and uniform throughout the State and will necessarily mean the input of disability advocacy groups and those with specialized knowledge in this field. It has been recommended that the 'Advisory Groups', should be formed in the various Counties. Creative ways of accessibility that are not cost-prohibitive, such as portable ramps, also must be explored.

Fundamental to this mission, however, is enforcement. The State must provide the oversight and monitoring of this statutory duty, by dedicating necessary resources. This must be a component of the State's management of HAVA compliance. It should also be considered as to whether criminal penalties should be imposed, by way of legislative enactment, for wilful failure to ascertain accessible polling places. It has been further suggested that the statutory distance restriction of going beyond the boundaries of an election district be relaxed to allow for more location options. Because public schools are otherwise required by law to be accessible, an idea that should be seriously considered is the closing of public schools, at least on the day of the general election, to free up those locations for fuller use. Since some schools remain open while serving as polling places, this idea could also alleviate security concerns regarding the safety of our students. All of these recommendations must be fully and aggressively pursued as having fully accessible polling places is a critical mandate that must be resolved in the near future.

Section Five

How the State will establish an Elections Fund for purposes of administering the State's activities, including information on fund management.

The State has already created a separate fund in the State Department of Treasury's Comprehensive Financial System ("CFS") for the deposit of federal monies received under HAVA. There are also several bills pending in the State Legislature that would create and identify an "Election Assistance Fund" to which all federal monies received under HAVA would be deposited along with appropriated state monies. The interest accrued on these monies would also be deposited into this account. The fund will be administered by the Department of Law and Public Safety.



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Section Six

The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specified information on

- A. the costs of the activities required to be carried out to meet the requirements of Title III;*
- B. the portion of the requirements payments which will be used to meet such requirements; and*
- C. the portion of the requirements payment which will be used to carry out other activities.*

Title III Requirements: Estimated Costs for each Item; Portion of requirements money to be allocated.

At the outset, it must be stated that the following projections and estimates of the use of requirements money are based on the information the State currently possesses regarding the amount of Title III funds New Jersey will receive. For the federal fiscal year of 2003, it is estimated that New Jersey will receive approximately \$23 million. Following the commentary is a chart of the projected or estimated costs for the Title III requirements and the other activities under HAVA. We add the caveat, as other states have done so in their State Plans, that the ability of New Jersey to succeed in the goals envisioned by HAVA will require federal funding for the two succeeding fiscal years of 2004 and 2005. If New Jersey does not receive federal monies for those years, it would cause an undue burden not only on the State but on the Counties.

Voting Systems

In order to meet the voting system standards of Title III of HAVA, and as set forth in Section One of the Preliminary Plan, lever voting machines must be replaced and otherwise accessible voting machines in other Counties must be retrofitted to accommodate voters with visual impairments. It has also been determined that the electronic voting machines of Atlantic County must be replaced, along with the punch card absentee ballot counters in two Counties. Further, there needs to be a determination on whether the voting machines in Passaic and Warren Counties are to be replaced or augmented with an additional accessible voting system. If there were to be full replacement of those two Counties' machines along with all the other replacement and adaptation needs, the estimated cost is approximately \$39 million.



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As noted in Section One of the Preliminary Plan, the State received close to \$17 million of Title I monies. Even if all of these funds were used for voting equipment, it clearly would not be a sufficient amount. The voting system needs of New Jersey, therefore, will require a substantial portion of Title III monies. Dependent upon full three-year federal funding, it is anticipated that the affected Counties could receive at least 50% of the cost of their voting machine replacement and adaptation expenses.

Statewide Voter Registration

As stated in Section One of the Preliminary Plan, New Jersey does not have a statewide voter registration system, as defined by HAVA. The registration system will have to include a central computer mainframe at the State level. It will be necessary to establish connectivity with the governmental offices identified in Section Two of the Preliminary Plan. A State contract will be entered into for this system, which will entail the purchase of software and hardware. It is estimated that the cost will be approximately \$20 million.

Provisional Balloting

New Jersey has had provisional balloting in the State since 1996. This provisional balloting is currently funded and managed at the county level. While HAVA will likely result in the some increase in the use of provisional balloting, it is estimated that the cost will be minimal and likely may not require any Title III monies. As for the free access system that the Attorney General must establish, it is estimated that this system can be initiated with the minimal investment in a toll-free telephone access number, with the State studying the feasibility of eventual Internet access. The sum of \$1 million is estimated to be needed to fully develop this system.

Election Forms and Documents

To meet the requirements of HAVA, New Jersey will need to revise its voter registration forms, absentee and provisional ballot materials. It is estimated that the initial costs for reprinting will be approximately \$500,000.

“Other Activities” for Which the Use of Requirements Payments is Anticipated.

Voter Education

Currently, the voters of New Jersey receive electoral information by way of legal notices in the newspapers and the sample ballot for an upcoming election which is sent to the registered address of voters. In addition to these legally mandated notices, election officials at the state and county levels will, at individual discretion, employ such resources as cable tv access, the Internet, and public service announcements on the television and radio. Counties will also expand voter education efforts when a new voting system is being introduced into a County, by way of public demonstrations at a number of locations, and will likewise use cable television and the Internet.

It is intended that the State will expand voter education and outreach with the use of modern marketing techniques to reach all qualified citizens. There needs to be special emphasis on reaching voters with disabilities to assure their full participation in elections. It is estimated that \$ 3 million will be needed for this purpose.



Disability Access

In addition to the installation of accessible voting systems, voter education and outreach for voters with disabilities, it is expected that there will be costs involved in assuring polling place accessibility and providing election materials in alternate forms. It is estimated that \$750,000, in addition to the Section 261 funds, will be needed for this purpose.

Election Officials' Training

The Attorney General will develop formal training classes for the county election officials and chief administrative support staff in those offices. The Attorney General also will develop a uniform training program, including a statewide board worker manual and classroom instruction, for district board workers. It is estimated that such programs could cost \$1 million, depending upon the ultimate method of financing. Such method needs to consider cost-sharing at all levels of government to assure continued training programs for future election officials and personnel.

Administrative Complaint Procedure

Pursuant to Section 402 of HAVA, the State must establish an administrative complaint procedure for any alleged violations of HAVA. This will require New Jersey to expand the administrative procedure it developed under NVRA and it is estimated that the expansion of this procedure will cost \$250,000 for this procedure.

State Management Costs

In order for the State to undertake the management of a statewide voter registration system, to monitor the implementation of HAVA and to initiate standard educational criteria for election officials, it is estimated that it will necessitate the expenditure of \$3 million.

Allocation of Title III Funds

The estimated costs set forth in the above Chart amount to roughly \$68 million. For federal fiscal year 2003, the State is fairly certain that it will receive approximately \$23 million, based upon the Congressional appropriation. We do not know at this point if, in fact, there will be any future appropriations, although HAVA authorizes an appropriation of \$1 billion for fiscal year 2004 and an appropriation of \$600 million for fiscal year 2005.

The State will allocate a significant portion of the Title III funds to assure compliance with the mandated requirements of Title III: compliant voting systems, a statewide voter registration system, free access system for provisional ballot voters and the voter registration form. Because of the significant funds that will be required for the voting systems and the statewide voter registration system, the estimates for the "Other Activities" are conservative because of the uncertainty of future federal funding. Funding for the "Other Activities" will increase if there is future funding.

Estimated Costs

The following is subject to full federal funding:

HAVA Requirements	Estimated Costs*	Deadline
I. Title III requirements		
A. Voting Systems (Sec. 301)		
1. Replacement of lever machines	\$25.8M	2006 (Mandatory)
2. Replacement of Atlantic County machines	\$2.3M	
3. Replacement of punch card absentee ballot counters	\$75,000	
4. Adaptations for Accessibility	\$3M	
5. Replacement of voting machines in Passaic County	\$6M	
6. Replacement of voting machines in Warren County	\$1.5M	
B. Statewide Voter Registration (Sec. 303)	\$20M	2006 (Mandatory)
C. Provisional Balloting (Free-access System (Sec. 302))	\$1M	2004 (Mandatory)
D. Revised Forms and Notices (Sec. 302/303)	\$500,000	2004 (Mandatory)
II. "Other" Activities		
A. Disability Access (excluding voting systems)	\$750,000	
B. Administrative Grievance Procedure	\$250,000	2004 (Mandatory)
C. Voter Education	\$3M	
D. Election Officials' Training	\$1M	
E. State Management	\$3M	

*Funding Sources - Sections under HAVA

<u>101</u>	<u>102</u>	<u>258 + 5% match</u> **	<u>261</u> **
\$8,141,208	\$8,695,609	\$24.2M (fy 2003)	\$352,485

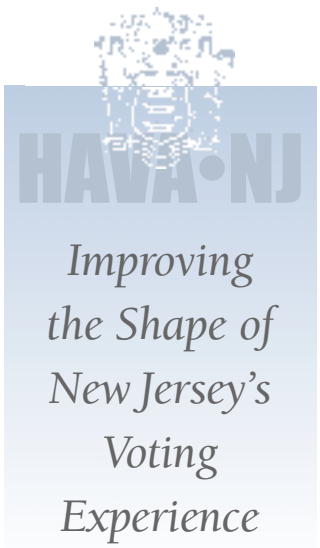
**Pursuant to Section 258 (requirements payments) and Section 261 (access for voters with disabilities payments) there should be an appropriations under these Sections for fiscal years 2004 and 2005. We do not know at this time how much New Jersey will receive in those years.

Section Seven

How the State, consistent with HAVA, will maintain expenditures of the State for activities funded by the payments at a level equal to or greater than the level of such expenditure in State FY2000.

In New Jersey, the bulk of fiscal responsibility for the conduct of general and primary elections falls upon the County. Each County pays for its voting equipment, ballot printing, administrative election offices, and a portion of the district board workers' salary. HAVA will not alter the State's current funding responsibility for elections that are mandated by state statute.

The State will not appropriate less than the amount it appropriated for election expenses in FY2000.



Section Eight

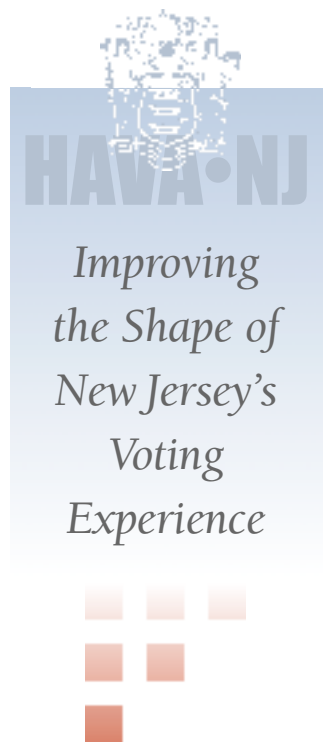
How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the state in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the processes used to develop such criteria and a description of which official is to be held responsible for ensuring that each performance goal is met.

The Attorney General will be the State official responsible for the monitoring of the implementation of the State Plan and assuring all required implementation by state officials, including those NVRA designated voter registration agencies, and county election officials. In order to provide for accountability, the Attorney General will develop a performance management program. It will include reports from election officials and staff members working at the county and state level, evaluations from field studies and analysis of data collected from individuals involved in elections.

In order to assess the performance of voting systems and the statewide voter registration system, the Attorney General will develop reporting requirements from the counties and develop a format for state evaluations on a case study basis. The assessments of performance will be conducted after the June and November elections and include any malfunctions of voting machines, any problems voters encountered in using the machines and any problems involving the statewide voter registration system. It will be the intent of the Attorney General to secure legislation to provide for the force and effect of such reporting system.

Because of the number of voting systems that need to be replaced or modified and because the State has to create a statewide voter registration system, it is expected that New Jersey may need to seek waivers for the voting systems and statewide voter registration system. This is not to suggest that the State will not exert its best efforts to meet the initial deadline of 2004.

The overall goals of the State Plan and the criteria to determine compliance are as illustrated in the table on the following page.



Performance Goals and Measures

	Goal	Timetable	Criteria to Measure Goal	Responsible Official
A. Voting Systems				
1. Lever Machines	Replacement of all lever machines in polling places	January 2004, unless a waiver is required until January 2006	There are seven counties in the State that currently use lever machines. Success will be based upon how many counties are no longer using lever machines as of January 1, 2006.	The Attorney General will provide the oversight for statewide replacement.
2. Absentee Ballot Counters	Replacement of punch card absentee ballot counters	January 2004, unless a waiver is required until January 2006	There are two counties in the State that use counters. Success will be measured by the number of counties that do not have this type of counter by January 1, 2006.	The Attorney General will provide the oversight for statewide replacement.
3. Accessible Voting Systems for Voters with Disabilities	Accessible voting systems for voters with disabilities	January 1, 2006	The number of accessible systems purchased and in use, relative to the number required.	The Attorney General will provide the oversight for statewide replacement.
B. Statewide Voter Registration System	A fully integrated, functional single and centralized statewide voter registration system that is administered at the state level and connected with all requisite governmental offices.	January 2004, unless a waiver is required until January 2006	The number of required governmental offices that will be connected to the statewide system and the operation of the system, as intended under HAVA.	The Attorney General will be responsible to oversee the development and start-up of the system, and will be responsible for monitoring its operation, and all connected governmental offices with related duties, will be subjected to oversight.
C. Provisional Balloting	New Jersey has had provisional balloting in the polling places since 1996. The goal is to expand the process to include voters who lack the requisite identification requirements or who vote by court order after polling hours; and to provide a free access system to ascertain the disposition of such ballots.	June 2004 Presidential Primary Election	Implementation of free-access system at each county board of election office and the number of provisional ballots issued to voters at the polling place who did not have the requisite identification.	Attorney General will be responsible for the set-up of the free access system and the county boards for the implementation of the system and training and supervision of the board workers regarding the identification requirements and the expanded use of the provisional ballots.
D. Posting of Notices in Polling Places	Post notices in every polling place in the State, the required notices set forth in Title III.	June 2004 Presidential Primary Election	Number of polling places in State with required notices as of the June 2004 Primary Election.	The Attorney General will design and provide to the county boards of election the requisite signs. The county boards will be responsible to ensure that the district board workers post the signs.

Continued on next page

Continued from previous page

Performance Goals and Measures				
	Goal	Timetable	Criteria to Measure Goal	Responsible Official
E. Voter Registration Form	A revised voter registration form in conformance with HAVA requirements.	January 1, 2004	A revised form that is printed, distributed and in use as of the above date. Further, the number of revised forms submitted in comparison to old forms.	The Attorney General will be responsible for the printing and distribution of the voter registration forms. The registration agencies will be responsible for use.
II. "Other Activities" under HAVA				
A. Voter Education and Outreach	Expand the number of outlets to inform the public of voter registration requirements and other election matters.	January 1, 2004	The number of outlets used for the 2004 Primary Election in comparison to the number used for the 2003 General Election; voter turnout.	The Attorney General and the designated voter registration agencies will be responsible.
B. Election Official Training				
1. County Election Officials	Formalize a training program for county election officials and critical support staff.	January 2005	The development and implementation of a training program. A certified program will require legislation.	Attorney General and County Election Officials.
2. District Board Workers	A uniform statewide training program.	January 2005	The implementation of a program, including a standard manual and classroom instruction. Success will be reduction of election day problems.	The Attorney General in conjunction with the County Boards of Election and County Superintendents of Elections will be responsible.
C. Administrative Complaint Procedures	An administrative grievance procedure in conformance with Section 402 of HAVA.	January 1, 2004	Success of the procedure will be measured by the number of complaints received; their disposition and the time it took for resolution.	The Attorney General will be responsible for the intake of the complaint and to assure proper resolution, which may require the involvement of another election office.

Section Nine

A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.

Under the current rules and regulations of the Attorney General, consistent with the NVRA, there is a citizen complaint procedure relating to voter registration. Pursuant to the New Jersey Administrative Code, N.J.A.C. 13:17-1.9, any person who believes that he or she has been denied the opportunity to register, or to decline to register, to vote; or to choose a political party preference, may file a complaint with the Attorney General. The complaint must be in writing, signed and dated by the complainant. The Attorney General is obligated to review the complaint and refer it to the appropriate office for action as deemed necessary.

There is a 90- day deadline for administrative handling of the matter. If the violation is not corrected by this deadline, or within 20 days if the violation occurred within 120 days of a federal election, the complainant can file suit in federal district court. A complainant has the right to file suit in federal district court, without first providing any notice to the Attorney General, if the alleged violation occurs within 30 days of a federal election.

This administrative procedure should be expanded and modified to conform to the requirements of HAVA as follows: First, the subject matters of the complaint process will include the requirements and rights provided for in HAVA, and therefore, not be limited to the registration process for voting. Second, the complaint will need to be notarized and sworn to by the complainant. Third, the Attorney General will have the authority to consolidate complaints. Fourth, the complainant will have the right to request a hearing and if one is requested the Attorney General will refer the matter to the Office of Administrative Law, in accordance with the State Administrative Procedures Act under Title 52. Fifth, the Attorney General must establish an “alternate dispute resolution procedure” in the regulation for those complaints which are not resolved within 90 days. This alternate procedure must be concluded within 60 days.

The regulation should also state that the grievance procedure does not include attorneys fees, damages or costs. Furthermore, it would not affect the current statutory procedures relating to election recounts or contests, as set forth in Title 19. It has also been suggested that consideration be given to providing information on the availability of legal resources when a person submits a complaint.



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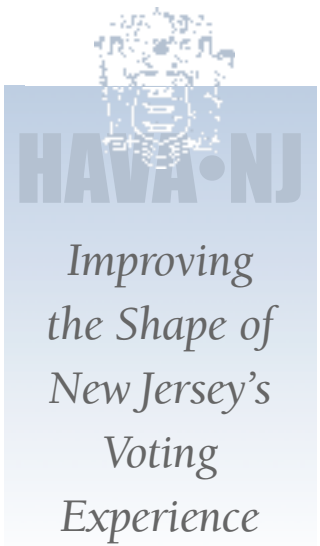
Section Ten

If the State received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

Pursuant to Title I of HAVA, the State of New Jersey timely applied for and received from the General Services Administration a total of \$16,836,817 in Title I funds.

It is recommended that the majority of these funds be dedicated to voting machine replacement as nearly half of the State's Counties currently have voting systems in the polling places that can not meet HAVA's voting standards, and as stated in Sections Six of the Preliminary Plan, replacement costs are substantial.

A portion of the Title I monies may also be dedicated to assist in the start-up costs for the state-wide voter registration system.



Section Eleven

How the State will conduct ongoing management of the plan except that the State may not make any material change in the administration of the plan unless the change

- A. is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan;*
- B. is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and*
- C. takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).*

The Attorney General, in his capacity as the State's chief election official, will determine if there needs to be a material change to the State Plan. Any individual will have the right to request a material change. This request will need to be submitted in writing to the Attorney General. Furthermore, the Attorney General will solicit, in a manner he deems appropriate, the input of the county and local election officials and members of the Legislature regarding the implementation of the Plan. If the Attorney General determines that a material change to the Plan is necessary, he will proceed to change the Plan in accordance with the procedures set forth in Section 255 of HAVA. Thereafter, the Attorney General will provide for public comment and publication in the Federal Register. Only after these steps are taken, would any material change to the Plan be effected.



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Section 12

In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes for the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such fiscal year.

New Jersey had no State plan, as such term is described in HAVA, for the previous fiscal year.



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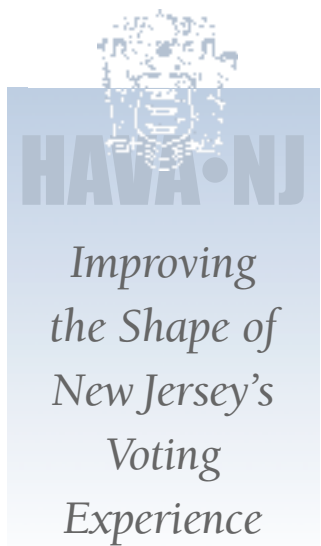
Section Thirteen

A description of the committee which participated in the development of the State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256 of HAVA.

As New Jersey's Chief Election Official, Attorney General Peter C. Harvey undertook to form a diverse committee of individuals with a demonstrated commitment to the State's election process and who are notably interested in improving elections for the benefit of all of our citizens. Selection decisions were made in conformance with the criteria set forth in HAVA. First, the chief election officials for the two largest jurisdictions in the State were appointed. In New Jersey, these officials are Carmine Casciano, the Essex County Superintendent of Elections and Patricia DiConstanza, the Bergen County Superintendent of Elections. Superintendent Casciano has been in office for the past 13 years and is a former Essex County Freeholder. Superintendent DiConstanza has been an election official for the past 17 years, having previously served as a member of the Bergen County Board of Election.

HAVA further required that representatives of disability groups be on the SPC. Attorney General Harvey appointed Sheri-Rose Rubin, Esq., of the New Jersey Protection and Advocacy, Inc. It is a private, non-profit, consumer-directed corporation dedicated to protecting the civil, human, and legal rights of individuals with disabilities, and is the designated protection and advocacy system for individuals with disabilities in New Jersey. On election days, this office places attorneys in the counties to assist any voter with disabilities. Ethan Ellis, of the Monday Morning Project, was also appointed. This group promotes registration, education and accessibility for voters with disabilities.

Section 254 of the Act further required that local election officials be on the SPC. The following individuals come within this category. Joanne Armbruster, the Atlantic County Superintendent of Elections, is also the newly-elected President of the New Jersey State Association of Election Officials and was chosen by her county election official colleagues to be one of the two New Jersey representatives for the yet-to-be established federal Standards Board. She brings over 30 years of experience as a County Board of Election member and Superintendent of Elections. James Parent, the Chief Clerk of the Cumberland County Board of Election, has been in the election field for close to 30 years. He is also a former President of the New Jersey League of Municipalities. Jane Williams-Warren is the Municipal Clerk of the City of Paterson, Passaic County, which has non-partisan municipal elections in May and for which the Clerk has substantial electoral duties. Ms. Williams-Warren is chiefly responsible for the development and teaching of an innovative master board worker program in Passaic County which has been most effective in assisting voters and board workers on election days. Union County Clerk Joanne Rajoppi heads an election division in her office that is responsible for the printing



of election ballots and absentee ballot applications. Union County has used electronic voting equipment for elections for the past seven years so her expertise in this area assisted one of the core missions of HAVA.

The Act also mandated the chief election official to appoint a variety of citizens to the SPC. Attorney General Harvey chose Juan Cartagena, Esq., who is a New Jersey resident and who works with the Community Service Society of New York. Mr. Cartagena has been involved with some of the most significant lawsuits relating to the conduct of elections in New Jersey, one of which was the catalyst for statutory reform protecting the right of any voter not to be challenged on his or her right to vote on racial, ethnic or political preference grounds. Mr. Cartagena was also instrumental in developing the voter registration and voting procedures for qualified voters residing in state psychiatric hospitals.

Two other members of the SPC are associated with Rutgers University, the State University of New Jersey. Ernest Reock, a retired Professor, is affiliated with the Rutgers Center for Government Services, whose mission is to conduct educational courses for such governmental officials as county tax board members, housing authority board members and municipal clerks. Part of the curriculum for the clerks encompasses their election duties. Professor Reock is also noted for his expertise in redistricting. Ingrid Reed is with the Eagleton Institute of Politics, which studies a variety of public issues and conducts public opinion polls. Ms. Reed, whose specific interests relate to campaigns and elections from the point of view of the voter, recently completed a study of the 2001 New Jersey election.

The following members of the SPC are members of public interest organizations that promote voter participation. Sandra Matsen is a past President of the New Jersey League of Women Voters, a non-partisan group, nationally-renowned for voter education, in part, by the sponsorship of pre-election candidate forums. Marilyn Askin is the President of the New Jersey AARP, which represents senior citizens, a segment of society with a strong record of voter participation. Lionel Leach is the Executive Director, NAACP National Voter Fund NJ. Throughout the country, the NAACP has long stood for protecting the right of all citizens to have a voice in the democratic process. Mr. Leach has also been directly involved in educational programs for young voters. That is the core mission of the national organization known as Freedom's Answer and for which SPC member Cole Kleitsch spearheads the New Jersey Chapter. Mr. Kleitsch has recently been involved in the implementation of a recent state law that permits 16 and 17 year old students to act as board workers. Denise Velazquez-Marrero worked as the South Jersey representative for the office of Puerto Rico Federal Affairs. That office actively conducts voter registration drives within the Hispanic communities in the State. She is now with the New Jersey Motor Vehicles Commission, which is a voter registration agency. Charles Wowkanech is the President of the New Jersey AFL-CIO, which has long been involved in voter registration.

The SPC held its organizational work session on May 12, 2003 and met thereafter on a weekly basis. Commencing with the third session, the sessions were open to the public to observe the discussion. Public hearings are to be held at six locations around the State. During the course of its work sessions, the SPC has posted information regarding its work on the Department of Law and Public Safety website, in which it invited written public comment. The Preliminary Plan was made available for public comment on June 20, 2003.

Concluding Remarks

This Preliminary Plan was developed to provide the citizens of New Jersey with notice as to how the State will comply with the requirements of HAVA and how it intends to use all of the federal funds that will be provided to the State. We have attempted to provide this information in a straightforward manner and to provide as much detail as we reasonably could. It has also been our intent to provide reasonable expectations as to what the State will be able to do to improve its election process.

As was stated in the Introduction, change will not occur overnight. We are confident that what has been proposed in the Preliminary Plan, however, can be accomplished with the continued, selfless commitment of our State's election officials at all levels and the willingness of all interested constituencies, from public interest groups to elected officials and the public at large, to work together to achieve these goals. No Plan can be realized without such joint effort.

The deliberations by the SPC have been a learning process for all directly involved. Now it is your turn. During the 30-day public comment period which runs from June 20, 2003 to July 20, 2003, members of the public have the opportunity to tell us what you think. We invite you to share with us your ideas of how to improve elections in New Jersey. We can not promise that all of your ideas can be realized in short order, but they may lead to further study. While we were specifically charged under HAVA to address the 13 points that are in the Plan, we also had the opportunity to raise future concepts such as web-based voter registration systems and voter-verified paper trails for voting systems.

Thank you for taking the time to study the Plan. You are welcome to attend one of six public hearings that are to be held throughout the State during the public comment period. The schedule is attached. You may also send written comments to the HAVA website or the Attorney General's Office.

After the public comment period, we will consider all of the input when we are finalizing the Plan for its delivery to Washington, D.C. The Plan will be published in the Federal Register for a 45-day period before it takes effect.

Peter C. Harvey
Attorney General
State of New Jersey



